



Commonwealth of Massachusetts State Ethics Commission

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phone: 617-727-0060, fax: 617-723-5851



CONFLICT OF INTEREST OPINION EC-COI-83-90

FACTS:

You currently serve as the full-time Dean of Administrative Services at ABC college (ABC). In that capacity you are the chief fiscal, administrative and business officer of ABC. Your responsibilities include the preparation of the annual budget; supervising the preparation of budget requests, financial reports and the expenditure of funds, and overseeing the fiscal policies and control of funds for the Division of Continuing Education (Division).

QUESTION:

Does G.L. c. 268A permit you, outside of normal working hours to teach courses for compensation in the Division?

ANSWER:

No

DISCUSSION:

As the Dean of Administrative Services at ABC, a state[-funded] college, you are a state employee within the meaning of G.L. c. 268A, ' 1(q). As a state employee, you are subject to the restriction of G.L. c. 268A, ' 7 which, in general, prohibits state employees from having a financial interest in a second contract made by a state agency. Because your proposed teaching arrangement would constitute a financial interest in a second contract made by a state agency, it is prohibited unless you qualify for one of the statutory exemptions within ' 7.

The only relevant exemption is contained in ' 7 p. 4 and allows a state employee to teach, part-time, in an educational institution of the commonwealth as long as the employee does not participate¹ in or have official responsibility² for the financial management of the educational institution.³

On the basis of the information which you have provided, the Commission advises you that you do not qualify for the "teaching exemption." As chief fiscal, administrative and business officers of ABC, your duties regularly require your participation in and official

responsibility for the financial management of the same educational institution at which you would like to teach. EC-COI-81-126; 82-158.⁴

DATE AUTHORIZED: June 23, 1983

¹ For the purposes of G.L. c. 268A, "participate" is defined as participate in agency action or in a particular matter personally and substantially as a state . . . employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, ' 1(j).

² For the purposes of G.L. c. 268A, "official responsibility," is defined as the direct administrative or operating authority whether intermediate or final, and either exercisable alone or with others, and whether personal or through subordinates, to approve, disapprove or otherwise direct agency action. G.L. c. 268A, ' 1(i).

³ This exemption was established by the General Court in 1980, St. 1980, c. 303, to enable most state employees to have part-time teaching opportunities in state educational institutions. Prior opinions of the Attorney General and Commission had found such teaching arrangement to be improper in view of the broad prohibition in ' 7 against financial interests in second state contract. Attorney General Conflict Opinion No. 844; EC-COI-79-38. The 1980 amendment effectively reverses these prior opinions except as to those individuals who participate in or have official responsibility for the financial management of the institution where they wish to teach.

⁴If you choose to teach the course for no compensation, they you would not be in violating of ' 7.